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Before the
Federal Communications Commission
Washington, D.C. 20554

SEP - 8 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In re Applications of

COMMUNITY EDUCATIONAL ASSOCIATION
Holly Hill, Florida

CORNERSTONE COMMUNITY RADIO, INC.
Flagler Beach, Florida

For Construction Permit

) MM DOCKET NO. 94-88

) File No. BPED-930316MF

) File No. BPED-930618MG

To: Honorable Joseph Chachkin,
Administrative Law Judge

**COMMENTS IN SUPPORT OF
PETITION FOR LEAVE TO AMEND**

Cornerstone Community Radio, Inc. ("CCR"), through counsel, hereby submits these brief comments in support of the Petition for Leave to Amend filed August 30, 1994, by Community Educational Association ("CEA").

CEA's amendment proposes operation at Holly Hill, Florida, on Channel 201 rather than on Channel 212 as specified in its original application, and at a different transmitter location. The amendment would remove the mutual exclusivity between the CCR and CEA applications and permit the Presiding Judge to sever the applications and grant the CCR application.

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The technical aspects of the CEA amendment no doubt will be addressed in the Comments of the Mass Media Bureau. The CEA amendment has been reviewed by CCR's President, Richard L. Van Zandt, a technical consultant whose qualifications and experience are known to the Commission, and CCR knows of no technical reason why the CEA amendment should not be accepted for filing.

The amendment satisfies the good cause requirement of Section 73.3522(b) of the Rules.¹ The amendment will not require the addition of new issues, will not prejudice CCR, and will not confer a comparative advantage on CEA. Moreover, because the amendment seeks to avoid mutual exclusivity resulting from the later-filed CCR application, the amendment is not, at least entirely, voluntary. California Broadcasting Corp., 90 FCC 2d 800 (1982).

While it could be urged that the amendment could have been submitted at an earlier time, and that the necessity of the amendment was not unforeseeable (as the rule prescribes in the case of engineering amendments), the Commission has held that the specific factors of Section 73.3522(b) are "not [to be] rigidly applied." Rebecca Radio of Marco, 4 FCC Rcd 830, 834 (1989), modified, 5 FCC Rcd 937 (1990). "[T]he primary purpose of the good cause requirement ... is to prevent undue disruption of our administrative processes rather than to stultify our proceedings." Id.

¹ Although the amendment proposes a "major change" in the CEA application, post-designation amendments are subject to Section 73.3522(b) of the Rules, not Section 73.3573. California Broadcasting Corp., 90 FCC 2d 800 (1982).

Far from disrupting the administrative process, the amendment simplifies this proceeding and facilitates the inauguration of new noncommercial educational FM service at Flagler Beach while the remaining issues concerning the CEA application are considered.

For these reasons, the good cause requirements of Section 73.3522(b) have been satisfied, the CEA amendment should be accepted for filing, the CEA and CCR applications should be severed, and the CCR application should be granted.

Respectfully submitted,

CORNERSTONE COMMUNITY RADIO, INC.

By: 

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September 8, 1994

CERTIFICATE OF SERVICE

I, J. Geoffrey Bentley, do hereby certify that a copy of the foregoing **COMMENTS**
IN SUPPORT OF PETITION FOR LEAVE TO AMEND was sent this 8th day of
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